

AMENDED IN SENATE APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 352

Introduced by Assembly Member Solorio

February 14, 2007

An act to amend Section ~~626.10~~ 12556 of the Penal Code, relating to ~~weapons~~ *imitation firearms*.

LEGISLATIVE COUNSEL'S DIGEST

AB 352, as amended, Solorio. ~~Weapons. Imitation firearms.~~

Existing law, subject to exception, provides that any person who brings or possesses, among other things, any instrument that expels a metallic projectile such as a BB or pellet through the force of air pressure, CO₂ pressure, or spring action, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison. Existing law excludes from this offense a person who brings such an instrument with the written permission of the school principal or his or her designee.

This bill would expand the scope of the offense to include bringing or possessing any instrument that expels a nonmetallic BB or pellet.

Existing law, subject to exceptions, makes it an offense to openly display or expose an imitation firearm in a public place, as defined.

This bill would include public schools within the definition of "public place" for purposes of these provisions.

By changing the scope of an existing offense, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12556 of the Penal Code is amended to
2 read:

3 12556. (a) No person may openly display or expose any
4 imitation firearm, as defined in Section 12550, in a public place.

5 (b) Violation of this section, except as provided in subdivision
6 (c), is an infraction punishable by a fine of one hundred dollars
7 (\$100) for the first offense, and three hundred dollars (\$300) for
8 a second offense.

9 (c) A third or subsequent violation of this section is punishable
10 as a misdemeanor.

11 (d) Subdivision (a) shall not apply to the following, when the
12 imitation firearm is:

13 (1) Packaged or concealed so that it is not subject to public
14 viewing.

15 (2) Displayed or exposed in the course of commerce, including
16 commercial film or video productions, or for service, repair, or
17 restoration of the imitation firearm.

18 (3) Used in a theatrical production, a motion picture, video,
19 television, or stage production.

20 (4) Used in conjunction with a certified or regulated sporting
21 event or competition.

22 (5) Used in conjunction with lawful hunting, or lawful pest
23 control activities.

24 (6) Used or possessed at certified or regulated public or private
25 shooting ranges.

26 (7) Used at fairs, exhibitions, expositions, or other similar
27 activities for which a permit has been obtained from a local or
28 state government.

(8) Used in military, civil defense, or civic activities, including flag ceremonies, color guards, parades, award presentations, historical reenactments, and memorials.

(9) Used for public displays authorized by public or private schools or displays that are part of a museum collection.

(10) Used in parades, ceremonies, or other similar activities for which a permit has been obtained from a local or state government.

(11) Displayed on a wall plaque or in a presentation case.

(12) Used in areas where the discharge of a firearm is lawful.

(13) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

(e) For purposes of this section, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings, *and shall include public schools*.

(f) Nothing in this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

SECTION 1. Section 626.10 of the Penal Code is amended to read:

~~626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2 ½ inches, folding knife~~

1 with a blade that locks into place, a razor with an unguarded blade,
2 a taser, or a stun gun, as defined in subdivision (a) of Section 244.5;
3 any instrument that expels a metallic or nonmetallic BB or pellet
4 through the force of air pressure, CO₂ pressure, or spring action,
5 or any spot marker gun, upon the grounds of, or within, any public
6 or private school providing instruction in kindergarten or any of
7 grades 1 to 12, inclusive, is guilty of a public offense, punishable
8 by imprisonment in a county jail not exceeding one year, or by
9 imprisonment in the state prison.

10 (b) Any person, except a duly appointed peace officer as defined
11 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
12 2, a full-time paid peace officer of another state or the federal
13 government who is carrying out official duties while in this state,
14 a person summoned by any officer to assist in making arrests or
15 preserving the peace while the person is actually engaged in
16 assisting any officer, or a member of the military forces of this
17 state or the United States who is engaged in the performance of
18 his or her duties, who brings or possesses any dirk, dagger, ice
19 pick, or knife having a fixed blade longer than 2 ½ inches upon
20 the grounds of, or within, any private university, the University of
21 California, the California State University, or the California
22 Community Colleges is guilty of a public offense, punishable by
23 imprisonment in a county jail not exceeding one year, or by
24 imprisonment in the state prison.

25 (c) Subdivisions (a) and (b) do not apply to any person who
26 brings or possesses a knife having a blade longer than 2 ½ inches
27 or a razor with an unguarded blade upon the grounds of, or within,
28 a public or private school providing instruction in kindergarten or
29 any of grades 1 to 12, inclusive, or any private university, state
30 university, or community college at the direction of a faculty
31 member of the private university, state university, or community
32 college, or a certificated or classified employee of the school for
33 use in a private university, state university, community college,
34 or school-sponsored activity or class.

35 (d) Subdivisions (a) and (b) do not apply to any person who
36 brings or possesses an ice pick, a knife having a blade longer than
37 2 ½ inches, or a razor with an unguarded blade upon the grounds
38 of, or within, a public or private school providing instruction in
39 kindergarten or any of grades 1 to 12, inclusive, or any private

1 ~~university, state university, or community college for a lawful~~
2 ~~purpose within the scope of the person's employment.~~

3 ~~(e) Subdivision (b) does not apply to any person who brings or~~
4 ~~possesses an ice pick or a knife having a fixed blade longer than~~
5 ~~2½ inches upon the grounds of, or within, any private university,~~
6 ~~state university, or community college for lawful use in or around~~
7 ~~a residence or residential facility located upon those grounds or~~
8 ~~for lawful use in food preparation or consumption.~~

9 ~~(f) Subdivision (a) does not apply to any person who brings an~~
10 ~~instrument that expels a metallic or nonmetallic BB or pellet~~
11 ~~through the force of air pressure, CO₂ pressure, or spring action,~~
12 ~~or any spot marker gun upon the grounds of, or within, a public~~
13 ~~or private school providing instruction in kindergarten or any of~~
14 ~~grades 1 to 12, inclusive, if the person has the written permission~~
15 ~~of the school principal or his or her designee.~~

16 ~~(g) Any certificated or classified employee or school peace~~
17 ~~officer of a public or private school providing instruction in~~
18 ~~kindergarten or any of grades 1 to 12, inclusive, may seize any of~~
19 ~~the weapons described in subdivision (a), and any certificated or~~
20 ~~classified employee or school peace officer of any private~~
21 ~~university, state university, or community college may seize any~~
22 ~~of the weapons described in subdivision (b), from the possession~~
23 ~~of any person upon the grounds of, or within, the school if he or~~
24 ~~she knows, or has reasonable cause to know, the person is~~
25 ~~prohibited from bringing or possessing the weapon upon the~~
26 ~~grounds of, or within, the school.~~

27 ~~(h) As used in this section, "dirk" or "dagger" means a knife or~~
28 ~~other instrument with or without a handguard that is capable of~~
29 ~~ready use as a stabbing weapon that may inflict great bodily injury~~
30 ~~or death.~~

31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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